

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3       Susanne Salvati-Bryant,

4                   Plaintiff

5       v.

6       Nancy A. Berryhill, Acting Commissioner of  
7       Social Security,

8                   Defendant

Case No.: 2:17-cv-01406-JAD-CWH

**Order Granting Motion  
for Attorney Fees**

[ECF No. 22]

9           Susanne Salvati-Bryant brought this action for judicial review of the Commissioner of  
10 Social Security's final decision denying her request for disability insurance benefits under 42  
11 U.S.C. § 405(g).<sup>1</sup> On the parties' stipulation, I remanded the matter for further administrative  
12 proceedings under sentence four of 42 U.S.C. § 405(g) with instructions to vacate the prior ruling  
13 and reconsider the disability claim.<sup>2</sup> Salvati-Bryant now moves for attorney fees and costs under  
14 the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.<sup>3</sup> I grant Salvati-Bryant's motion and  
15 award her \$5,300 in fees and costs.

16                                   **Discussion**

17           The EAJA authorizes courts to "award to a prevailing party other than the United States  
18 fees and other expenses . . . incurred by that party in any civil action . . . unless the court finds  
19 that the position of the United States was substantially justified or that special circumstances  
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<sup>1</sup> ECF No. 22 at 2.

23       <sup>2</sup> ECF No. 19.

<sup>3</sup> ECF No. 22.

1 make an award unjust.”<sup>4</sup> The district court has discretion to award attorney fees under the EAJA  
2 with no limit aside from a statutory hourly-rate cap.<sup>5</sup>

3 I find that Salvati-Bryant qualifies for attorney fees and costs under the EAJA because  
4 she is the prevailing party, and I do not find special circumstances that would make an award  
5 unjust<sup>6</sup>—indeed, her motion is unopposed. So I consider the reasonableness of her request using  
6 the lodestar method.<sup>7</sup> “To calculate the lodestar amount, the court multiplies ‘the number of  
7 hours reasonably expended on the litigation . . . by a reasonable hourly rate.’”<sup>8</sup> “Many district  
8 courts have noted that twenty to forty hours is the range most often requested and granted in  
9 social security cases.”<sup>9</sup> But this range is not a “de facto policy,” and a “determination will  
10 always depend on case-specific factors including, among others, the complexity of the legal  
11 issues, the procedural history, the size of the record, and when counsel was retained.”<sup>10</sup>

12 The statutory cap for attorney fees under 28 U.S.C. § 2412(d)(2)(A) is adjusted for  
13 inflation and is capped at \$196.79 per hour for work performed in 2017.<sup>11</sup> Salvati-Bryant’s  
14 attorney requests an hourly rate of \$195.95,<sup>12</sup> which falls within the statutory cap. I find that  
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16 <sup>4</sup> 28 U.S.C. § 2412(d)(1)(A); *see also Corbin v. Apfel*, 149 F.3d 1051, 1053 (9th Cir. 1998);  
17 *Meier v. Colvin*, 727 F.3d 867, 870 (9th Cir. 2013).

18 <sup>5</sup> 28 U.S.C. § 2412(d)(2)(A); *Sampson v. Chater*, 103 F.3d 918, 921 (9th Cir. 1996); *Atkins v.*  
19 *Apfel*, 154 F.3d 986, 989 (9th Cir. 1998).

20 <sup>6</sup> *See Shalala v. Schaefer*, 509 U.S. 292, 300 (1993) (explaining that a party is the “prevailing  
21 party” when a court grants a remand under sentence four of 42 U.S.C. § 405(g)).

22 <sup>7</sup> *Costa v. Comm’r of Social Security Admn.*, 690 F.3d 1132, 1135 (9th Cir. 2012).

23 <sup>8</sup> *Id.* (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)); *see also Stetson v. Grissom*, 821  
F.3d 1157, 1166-67 (9th Cir. 2016).

<sup>9</sup> *Costa*, 690 F.3d at 1135.

<sup>10</sup> *Id.*

<sup>11</sup> [https://www.ca9.uscourts.gov/content/view.php?pk\\_id=0000000039](https://www.ca9.uscourts.gov/content/view.php?pk_id=0000000039).

<sup>12</sup> ECF No. 22 (Exhibit B).

1 26.2 hours is reasonable. Counsel successfully obtained a remand of the Commissioner's  
2 decision denying Salvati-Bryant's benefits, but that agreement came only after counsel filed her  
3 motion to remand. In light of the detailed remand motion and its successful effect, I find that  
4 26.2 hours was a reasonable time expenditure in this case. So I award Salvati-Bryant \$4,900 in  
5 fees.

6 Finally, 28 U.S.C. § 2412(a)(1) gives me the authority to award "a judgment for costs . . .  
7 to the prevailing party in any civil action brought by or against the United States or any agency  
8 or any official of the United States acting in his or her official capacity in any court having  
9 jurisdiction of such action." Salvati-Bryant seeks \$400 for filing fees, mailing costs, and printing  
10 and binding costs. I find these costs are awardable, and I also award Salvati-Bryant her \$400 in  
11 costs.

### 12 Conclusion

13 Accordingly, with good cause appearing and no reason to delay, IT IS HEREBY  
14 ORDERED that Salvati-Bryant's motion for attorney fees [ECF No. 22] is GRANTED.  
15 The Clerk of Court is directed to enter judgment in favor of Salvati-Bryant and against the  
16 Commissioner in the amount of \$5,300, less any applicable processing fees allowed by  
17 statute.

18 DATED July 17, 2018.

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20 U.S. District Judge Jennifer A. Dorsey  
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